

STATE OF MONTANA
BEFORE THE BOARD OF PERSONNEL APPEALS

IN THE MATTER OF UNIT CLARIFICATION NO. 3-87:

MONTANA PUBLIC EMPLOYEES
ASSOCIATION, MONTANA STATE
PRISON CHAPTER,

Petitioner,

-vs-

STATE OF MONTANA, MONTANA
STATE PRISON,

Employer.

RECOMMENDED ORDER

* * * * *

I. BACKGROUND

(1) On December 15, 1987 the Board of Personnel Appeals received, from the Petitioner in the above-captioned matter, a petition for Unit Clarification. In that petition the Petitioner proposed to include Recreation Specialist within the existing bargaining unit represented by the petitioner at the Montana State Prison.

(2) On January 6, 1988 the Employer, in the above-captioned matter, filed, with the Board of Personnel Appeals, a Motion to Dismiss. In that Motion the Employer stated that the Petitioner was recertified as bargaining agent on June 3, 1987 following a decertification election held in substantially the same unit.

(3) On January 18, 1988 the Board of Personnel Appeals received the Petitioner's answer to the Employer's Motion to Dismiss. In that answer the Petitioner concedes that because of ARM 24.26.630(1)(d) the Recreation Specialists could not be included in the Montana State Prison Chapter until June 3, 1988.

(4) The records of the Board of Personnel Appeals show that a decertification election was held by the Board of

1
2 Personnel Appeals for the bargaining unit represented by the
3 Petitioner at the Montana State Prison on May 26, 1987.
4 That election was held in substantially the same bargaining
5 unit as would be affected by the Petitioner's petition for
6 Unit Clarification.

7 (5) The rules of the Board of Personnel Appeals,
8 ARM 24.26.630(d), provide that a Petition for Clarification
9 of a bargaining unit may be filed with the Board only if no
10 election has been held in substantially the same unit within
11 the past 12 months immediately preceding the filing of the
12 Petition.

13 II. RECOMMENDED ORDER

14 Inasmuch as there exists no question of fact that an
15 election was held in substantially the same bargaining unit
16 within the past 12 months, the Montana Public Employees
17 Association, Montana State Prison Chapter's petition for
18 Unit Clarification is hereby dismissed.

19 III. SPECIAL NOTICE

20 Exceptions to this Recommended Order may be filed
21 within 20 days of service thereof. If no exceptions are
22 filed, this Recommended Order shall become final Order of
23 the Board of Personnel Appeals. Address exceptions to the
24 Board of Personnel Appeals, P. O. Box 1728, Helena, Montana
25 59624.

26 DATED this 29th day of January, 1988.

27 BOARD OF PERSONNEL APPEALS

28
29 By:


30 Arlyn L. Plowman
31 Hearing Examiner
32

CERTIFICATE OF MAILING

I, Nara Shepherd, do hereby certify that a true and correct copy of this document was mailed to the following on the 29th day of January, 1988.

Mel Wojcik
Montana Public Employees Association
Box 5600
Helena, MT 59604-5600

Art McCurdy, Chief
Labor Relations &
Employee Benefits Bureau
Room 130, Mitchell Building
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